

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

OSCAR J. MASTERS, JR., as Appointed
Representative of JOSEPH M. MASTERS,

Plaintiff,

vs

6:02-CV-976

TOMMY THOMPSON, SECRETARY OF UNITED
STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

APPEARANCES:

OF COUNSEL:

OSCAR J. MASTER, JR.
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DAVID M. ZEVAN, ESQ.
Attorney for Plaintiff
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WILLIAM H. PEASE, ESQ.
Assistant U.S. Attorney

DAVID N. HURD
United States District Judge

DECISION and ORDER

Plaintiff, Oscar J. Masters, Jr., as Appointed Representative of Joseph M. Masters,
brought this action seeking judicial review pursuant to 42 U.S.C. § 405(g) of the Social
Security Act. By Report and Recommendation dated July 24, 2006, the Honorable David R.

Homer, United States Magistrate Judge, recommended that the plaintiff's motion be granted and the defendant's motion be denied. The defendant has filed timely objections to the Report-Recommendation.

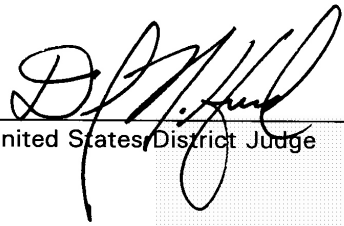
Based upon a de novo determination of the portions of the report and recommendations to which the defendant has objected, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. The plaintiff's motion is GRANTED; and
2. Defendant's motion for judgment on the pleadings is DENIED.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.



United States District Judge

Dated: November 20, 2006
Utica, New York.